

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**LYDIA LEYBA and LAWRENCE TRUJILLO
as Co-Personal Representatives of THE ESTATE
OF ROBERT “BOBBY” DOMINGUEZ, deceased,**

Plaintiffs

v.

CAUSE NO. 16-CV-185

**CITY OF SANTA FE, CHARLES A. LARAMIE, II,
RAYMOND J. RAEI, BOARD OF COUNTY
COMMISSIONERS OF SANTA FE COUNTY,
SANTA FE REGIONAL EMERGENCY
COMMUNICATIONS CENTER BOARD OF
DIRECTORS, ROBERT EAGAN,
JUDITH EAGAN, AND DOES I-V**

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441(b) and 1446(a) and (b), Defendants City of Santa Fe, Charles A. Laramie, and Raymond J. Rael, by and through their undersigned counsel Brennan & Sullivan, P.A. (James P. Sullivan and Christina L. G. Brennan), gives Notice of Removal to this Court of the civil action filed in the First Judicial District Court for the State of New Mexico, County of Santa Fe, Cause No. D-101-CV-2015-00572, filed by Lydia Leyba and Lawrence Trujillo as Co-Personal Representatives of the Estate of Robert “Bobby” Dominguez, deceased (Plaintiff), and as grounds therefore state:

1. On March 3, 2015, Plaintiff filed a Complaint for Wrongful Death Under the New Mexico Tort Claims Act and New Mexico Common Law and Petition for Appointment of Co-

Personal Representatives (“Complaint”) with the First Judicial District Court. A copy of the Complaint is attached hereto as **Exhibit 1**.

2. On August 8, 2011, Plaintiff filed a First Amended Complaint for Wrongful Death Under the New Mexico Tort Claims Act and New Mexico Common Law and Petition for Appointment of Co-Personal Representatives. A copy of the First Amended Complaint is attached hereto as **Exhibit 2**.

3. On March 3, 2016, Plaintiff filed a Second Amended Complaint for Wrongful Death Under the New Mexico Tort Claims Act and New Mexico Common Law and Petition for Appointment of Co-Personal Representatives (“Second Amended Complaint”). A copy of the Second Amended Complaint is attached hereto as **Exhibit 3**.

4. On March 9, 2016, Plaintiff stipulated to dismiss Defendant Monitronics. A copy of the stipulation of dismissal is attached hereto as **Exhibit 4**.

5. On March 9, 2016, a Stipulated Order Granting Joint Motion to Dismiss with Prejudice all Claims Against Defendant Monitronics International, Inc. was entered. A copy of the Stipulated Order is attached hereto as **Exhibit 5**.

6. This Notice of Removal is timely as it is filed within 30 days of the filing of the Second Amended Complaint, which for the first time raises federal issues.

7. All Defendants consent to the removal of this action.

8. Pursuant to 28 U.S.C. § 1446(d), copies of the Notice of Removal will be promptly given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the First Judicial District Court, County of Rio Arriba, State of New Mexico.

9. The claims stated against City Defendants that are subject to the original jurisdiction of this Court pursuant to 28 U.S.C. 1331 and 1343(a)(3) and (4) are as follows:

- a. Second Cause of Action in Plaintiff's Second Amended Complaint, alleging Fourth and Fourteenth Amendment excessive force violations against Defendant Laramie. See **Ex. 3**, ¶¶ 74-84.
- b. Fourth Cause of Action in Plaintiff's Second Amended Complaint, alleging supervisor liability under 42 U.S.C. § 1983 against Defendant Rael. See **Ex. 3**, ¶¶ 98-103.
- c. Fifth and Sixth Causes of Action in Plaintiff's Second Amended Complaint, alleging Municipal Liability pursuant to 42 U.S.C. § 1983. See **Exhibit 3**, ¶¶ 104-118.

10. Federal questions thus appear on the face of Plaintiff's Second Amended Complaint. The Court also has supplemental jurisdiction over Plaintiff's state law claims in the remaining causes of action in Plaintiff's Second Amended Complaint pursuant to 28 U.S.C. § 1367, as these claims are so related to the federal question claims which this Court has original jurisdiction over that they form part of the same case or controversy under Article III of the U.S. Constitution.

11. Pursuant to Rule 81.1(a) of the Local Rules of the United States District Court for the District of New Mexico, Defendants will file a Notice of Filing of State Court Record and copies of the pleadings filed in the First Judicial District for the State of New Mexico, County of Santa Fe, Cause No. D-101-CV-2015-00572, within twenty-eight (28) days of filing this Notice of Removal. A Civil Cover Sheet is attached as **Exhibit 6**.

12. Additionally, City Defendants provide the following copies of records with corresponding exhibit letters from the state court action, pursuant to D.N.M.LR-Civ.7.4(a):

- a. Acceptance of Service and Waiver of Service of Process filed March 23, 2015
- b. Egans' Answer, filed April 15, 2015
- c. Certificate of Service filed April 15, 2015
- d. Entry of Appearance filed April 30, 2015
- e. Jury Demand filed April 30, 2015
- f. City Defendants' Answer to Plaintiff's Complaint filed April 30, 2015
- g. Notice of Hearing filed June 23, 2015
- h. Answer filed April 15, 2015
- i. Return of Service filed June 5, 2015
- j. Certificate of Service filed June 22, 2015
- k. Notice of Hearing filed June 23, 2015
- l. Entry of Appearance filed July 6, 2015
- m. Answer to Complaint filed July 6, 2015
- n. Motion to Vacate filed July 10, 2015
- o. Order Vacating Scheduling Conference filed July 15, 2015
- p. First Amended Complaint for Wrongful Death filed August 12, 2015
- q. Answer to First Amended Complaint filed August 20, 2015
- r. Answer to First Amended Complaint filed August 25, 2015
- s. Answer to First Amended Complaint filed August 25, 2015
- t. Notice of Hearing filed September 2, 2015

- u. Summons Return, filed September 10, 2015
- v. Amended Answer to First Amended Complaint filed September 15, 2015
- w. Motion Vacating Scheduling Conference filed September 22, 2015
- x. Order Vacating Scheduling Conference entered September 23, 2015
- y. Entry of Appearance filed September 24, 2015
- z. Certificate of Service filed September 25, 2015
- aa. Certificate of Service filed October 1, 2015
- bb. Entry of Appearance filed October 23, 2015
- cc. Defendant Monitronics International Inc.'s Motion to Dismiss for Failure to State
a Claim Upon Which Relief Can Be Granted filed October 23, 2015
- dd. Response to Monitronics International Inc.'s Motion to Dismiss filed November
9, 2015
- ee. Summons and Return filed November 18, 2015
- ff. Request for Hearing filed November 24, 2015
- gg. Notice of Completion of Briefings on Defendant Monitronics International, Inc.'s
Motion to Dismiss filed November 24, 2015
- hh. Defendant Monitronics International Inc.'s Reply in Support of Its Motion to
Dismiss filed November 25, 2015
- ii. Certificate of Service filed November 25, 2015
- jj. Acceptance of Service filed December 1, 2015
- kk. Notice of Hearing filed December 1, 2015
- ll. Unopposed Motion to Vacate and Reset Hearing filed December 10, 2015

- mm. Order to Vacate Hearing filed December 10, 2015
- nn. Livewatch Security LLC's Motion to Dismiss for Failure to Join a Necessary Party or, in the Alternative, to Stay Pending Joinder filed December 21, 2015
- oo. Certificate of Service filed December 21, 2015
- pp. Motion for Summary Judgment filed January 7, 2016
- qq. Order Vacating Hearing and Scheduling Conference entered January 12, 2016
- rr. Amended Stipulated Motion to Vacate Hearing and Scheduling Conference filed January 13, 2016
- ss. Notice of Deposition: Abe Rodriguez filed January 13, 2016
- tt. Certificate of Service filed January 13, 2016
- uu. Response to Defendant Livewatch Security LLC's Motion to Dismiss for Failure to Join a Necessary Party filed January 21, 2016
- vv. Plaintiff's Response to Motion for Summary Judgment and Request for Limited Discovery filed February 5, 2016
- ww. Notice of Hearing entered February 29, 2016
- xx. Defendant Livewatch Reply to its Motion to Dismiss or Stay filed March 2, 2016

Respectfully submitted,

BRENNAN & SULLIVAN, P.A.

By: /s/ Christina L. G. Brennan
Christina L. G. Brennan
James P. Sullivan
128 East DeVargas
Santa Fe, New Mexico 87501
(505) 995-8514
Attorneys for Defendant City of Santa Fe

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of March, 2016, a true and accurate copy of the foregoing was served via email to the following:

Carolyn M. Nichols, Esq.
Rothstein Donatelli Hughes Dahlstrom Schoenburg & Bienvenu, LLP
500 4th Street, NW, #400
Albuquerque, NM 87102-2174
camnichols@rothsteinlaw.com

And

Mark H. Donatelli, Esq.
John C. Bienvenu, Esq.
Kristina Martinez, Esq.
1215 Paseo de Peralta
Post Office Box 8180
Santa Fe, NM 87504-8180
jbienvenu@rothsteinlaw.com
kemartinez@rothsteinlaw.com
Attorneys for Plaintiff

Jeffrey E. Jones, Esq.
Law Office of Jeffrey E. Jones
Post Office Box 24350
Santa Fe, NM 87502
eljefelaw@msn.com
Attorneys for Defendants Eagans

Michael Dickman
Law Office of Michael Dickman
Post Office Box 549
Santa Fe, NM 87504
mikedickman@yahoo.com
*Attorneys for Defendant Santa Fe County
and the RECC Board of Directors*

David W. Petersen, Esq.
Michael G. Smith, Esq.
Keleher & McLeod, P.A.
Post Office Box AA
Albuquerque, NM 87103
505-346-4646
505-346-1370 FAX

dwp@keleher-law.com

mgs@keleher-law.com

Attorneys for Defendant Livewatch Security, LLC

Geoffrey D. White, Esq.

Butt Thornton & Baehr, P.C.

Post Office Box 3170

Albuquerque, NM 87190-3170

505-884-0777

gdwhite@btblaw.com

Attorneys for Defendant Monitronics International, Inc.

By: /s/ Christina L. G. Brennan
Christina L. G. Brennan